

# TOWN OF MAXTON

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**DATE:** November 1, 2019

**TO:** Joint Legislative Administrative Procedures Oversight Committee

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**FROM:** Timothy R. Snead, Town Attorney

**SUBJECT:** Town of Maxton: Report and Compliance with Session Law 2019-198

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In accordance with the mandate presented in Session Law 2019-198, the Town of Maxton respectfully submits for review this Report, together with a description of the conduct subject to criminal punishment. In an effort to comply with the directives set forth, as well as compile and condense the applicable ordinances, a redacted ordinance listing is provided herewith.

Please be advised that, as established in N.C. Gen. Stat. §160A-175(b), unless the Town provides otherwise, the violation of a city ordinance is a misdemeanor or infraction. Specifically, if any person shall violate an ordinance of a town, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00), and if any person shall violate an ordinance of a town regulating the operation of parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00). See N.C. Gen. Stat. §14-4. This would appear to set criminal punishment as the default means of enforcement for local ordinances, unless the Town decriminalizes the same or takes separate action.

However, please also note that Chapter 1 of the Maxton Code states “No criminal penalties shall be applicable unless stated in this section as being applicable to specific chapters or provisions of this code.” The relevant portions of Chapter 1 are included herein below.

In light of the foregoing, a good faith attempt has been made to fully include any and all applicable codes which may be relevant to your chosen purpose and thoughtful review. For a more in-depth consideration, the Maxton Code of Ordinances may be accessed online at <https://www.ci.maxton.nc.us/maxton-code-of-ordinances/>. Please feel free to contact the town at the address and/or phone number above should additional material be required to supplement this submission.

## **Chapter 1: General Provisions**

### **1-6 GENERAL PENALTY; ENFORCEMENT OF ORDINANCES; CONTINUING VIOLATIONS.**

(A) (1) Unless otherwise specifically provided, violation of any provision of this code or any other town ordinance shall subject the offender to a civil penalty; except that, where the General Statutes of the state provide specific remedies for violations of provisions of the code adopted pursuant to the statutes, the remedies available to the town for enforcement of this code shall be in addition to the remedies stated in this section. *No criminal penalties shall be applicable unless stated in this section as being applicable to specific chapters or provisions of this code.*

(2) Where a civil penalty is incurred, a civil citation shall be issued by the appropriate official of the town and either served directly on the violator...

(3) If the violator fails to respond to a citation within 15 days of its issuance and pay the penalty prescribed in the citation, the town may institute a civil action in the nature of debt in the appropriate division of the state general court of justice for the collection of the penalty.

(B) A willful failure to pay any civil penalty incurred as stated in subsection (A) of this section ***shall be a misdemeanor and punishable by a fine up to \$500 and/or 30 days incarceration as provided by G.S. ' 14-4.***

(C) In addition to any civil or criminal penalties set out in this section, any provision of this code or any other town ordinance may be enforced by an appropriate equitable remedy...

(D) In addition to any civil or criminal penalties set out in this section, any provision of this code or any other town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement...

(E) (1) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause...

(2) If the defendant fails or refuses to comply with an injunction or with an order of abatement, within the time allowed by the court, he or she may be cited for contempt; and the town may execute the order of abatement...

(F) The provisions of this code and any other town ordinances may be enforced by one, and/or a combination of the remedies authorized and prescribed by this section; except that, ***any provision the violation of which incurs a civil penalty shall not be enforced by criminal penalties except as outlined in subsection (B) of this section.***

(G) Except as otherwise specifically provided, each day's continuing violation of any provision of this code or any other town ordinance shall be a separate and distinct offense.

(H) Any ordinances adopted by the Board of Commissioners of the town the violation of which shall incur a penalty shall specify whether the enforcement shall be pursuant to the civil penalty or criminal penal provisions of this section.

(I) Upon determination of a violation of any section of this code, the penalty for which is a civil penalty, the town may cause a warning citation to be issued to the violator...(J) Upon failure of the violator to obey the warning citation, a civil citation shall be issued by the appropriate official of the town and either served directly on the violator or his or her duly designated agent, or registered agent if a corporation, in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the county, or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of the citation. The citation shall direct the violator to appear before the Town Treasurer, located in the town hall, within 15 days of the date of the citation or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid: otherwise, further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated. If the violator fails to respond to the citation within 15 days of its issuance and pay the penalty prescribed in the citation, the town may institute a civil action in the nature of debt pursuant to subsection (B) of this section. ***A willful failure to pay the penalty shall result in the offender being charged with a misdemeanor and fined up to \$500 and/or incarcerated 30 days as outlined in subsection (B) of this section.*** (1970 Code, ' 1-6; 2001 Code, ' 1-6)

## **Chapter 2: Administration**

## **Chapter 3: Reserved**

## **Chapter 4: Amusements and Entertainment**

4-1 PENALTY. Any violation of this chapter subjects the offender to a civil penalty of \$500, as outlined in 1-6. (2001 Code, ' 4-1)

#### 4-97 ENFORCEMENT.

(A) *Inspection...*

(B) *Criminal penalties.*

(1) Any person who shall violate this article or any provision of this article shall be guilty of a misdemeanor and shall be subject to a \$500 fine or imprisonment as provided by G.S. ' ' 160A-175 and 14-4.

(2) Each day or portion thereof during which a violation of this article occurs shall be considered a separate and distinct offense. Likewise, the operation of each amusement device at a place of amusement in violation of this article shall be considered a separate and distinct offense.

(3) Any violation of this article shall be cause to immediately revoke and nullify the license issued under this article unless the violation is remedied within 24 hours of notification.

(C) *Civil penalties.* If any person shall violate this article or any portion of this article, he or she shall be subject to a civil penalty in the amount of \$100 for each day or portion thereof for each unlicensed amusement device operated or made available for use in violation of this article after five days written notice of a violation has been given by the Town Manager. Notice shall be given... This civil penalty may be recovered or collected by the town in a civil action as for a debt if payment is not made in accordance with this article as provided by G.S. ' 160A-175(c).

(D) *Equitable relief.* Pursuant to G.S. ' 160A-175(d) and (e), this article may be enforced by any appropriate equitable remedy available from and through the general court of justice, Superior Court Division.

(E) *Revocation.*

(F) *Multiple remedies.* The town may exercise any or all of the remedies available under this section to secure enforcement of this article, and the exercise or nonexercise of any one or more of the available remedies shall not preclude or waive the right of the town to exercise any other available remedies at any time.

(G) *Responsibility for enforcement.* It shall be the responsibility of the Police Department and the Town Manager to enforce the terms of this article and specific additional authorization of the Town Board shall not be required. (2001 Code, ' 4-97) (Ord. 2000-04, passed 4-11-2000)

#### 4-99 FALSIFICATION OF APPLICATION.

### **Chapter 5: Reserved**

### **Chapter 6: Animals**

#### 6-2 PENALTY FOR VIOLATION.

(A) The violation of any provision of this chapter shall result in a civil penalty of \$100, and any person cited for the violation shall be punishable as provided in ' 1-6. Payment of a penalty imposed pursuant to this subsection does not relieve a person of his or her liability for fees imposed under this chapter.

(B) In addition, enforcement of this chapter may be by appropriate equitable remedial injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. ' 160A-175.

(C) In addition to, or in lieu of, impounding a currently licensed dog found running at large, the Animal Control Officer or his or her agent may issue to the known owner of the dog a notice of violation of this chapter. The notice shall impose upon the owner of the dog the penalty as established by subsection (A) of this section, which penalty shall be on file in the office of the Town Clerk. The notice of violation referred to in this subsection may be delivered to the person violating the provisions of this chapter in person, or may be mailed.

(2001 Code, ' 6-2) (Ord. 1992-2, passed 7-14-1992)

#### 6-34 INTERFERENCE WITH ENFORCEMENT.

#### 6-35 ANIMALS AT LARGE.

It shall be unlawful for any person owning or having possession, charge, custody or control of any animal to suffer, permit or allow the animal to stray or in any manner to run at large in or upon any public street, sidewalk or park or upon the property of another if the animal is not under sufficient physical restraint as to allow the

animal to be controlled. (2001 Code, ' 6-35) (Ord. 1992-2, passed 7-14-1992)

#### 6-36 ANIMALS CREATING NUISANCE.

It shall be unlawful for an owner or keeper to permit an animal to create a nuisance or to maintain a nuisance created by an animal. (2001 Code, ' 6-36) (Ord. 1992-2, passed 7-14-1992)

#### 6-37 COLLECTING OF DOGS AND CATS FOR RESALE.

It shall be unlawful for any person to collect any dog or cat for the purpose of resale within the corporate limits of the town. This is construed to mean by soliciting from house to house or by setting of traps or other means on any land within the town. (2001 Code, ' 6-37) (Ord. 1992-2, passed 7-14-1992)

#### 6-38 KEEPING OF LIVESTOCK GENERALLY.

(A) It shall be unlawful for any person to keep, maintain, harbor, pasture or stable cows, horses, mules, goats and other livestock within the corporate limits of the town within 150 feet of any residence, school, church or commercial or public eating place. This shall not be construed to apply to the keeping of swine.

(B) Livestock shall only be allowed in areas permitted under the town's zoning ordinance, Ch. 44 of this code. (2001 Code, ' 6-38) (Ord. 1992-2, passed 7-14-1992)

#### 6-39 KEEPING SWINE.

#### 6-40 KEEPING OF FOWL.

#### 6-41 NON-DOMESTIC ANIMALS.

#### 6-43 HUNTING, KILLING, TRAPPING OF ANIMALS.

It shall be unlawful for any person to hunt, kill or trap any animal within the territorial limits of the town. This section shall not apply to the Animal Control Officer or his or her duly authorized agent when enforcing the provisions provided in this article. (2001 Code, ' 6-43) (Ord. 1992-2, passed 7-14-1992)

#### 6-44 SLAUGHTERHOUSES AND BUTCHERING.

It shall be unlawful for any person to operate or cause to be operated any slaughterhouse or to do any butchering within the town. (2001 Code, ' 6-44) (Ord. 1992-2, passed 7-14-1992)

#### 6-45 CONFINEMENT, MUZZLING AND CONTROL OF VICIOUS OR DANGEROUS DOMESTIC ANIMALS.

It shall be unlawful for any person to keep any vicious, fierce or dangerous domestic animal within the town unless it is confined within a secure building or enclosure, or it is securely muzzled and under restraint by means of a leash, chain or rope and firmly under control at all times. (2001 Code, ' 6-45) (Ord. 1992-2, passed 7-14-1992)

#### 6-46 INJURING ANIMALS, NOTICE REQUIRED.

#### 6-47 CRUELTY TO ANIMALS.

(A) (1) It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal, or to cause or procure the action.

(2) The terms "torture" and "torment" shall be held to include every act, omission or neglect whereby unjustifiable physical pain suffering or death is caused or permitted...

(B) It shall be unlawful for any owner or keeper to fail to provide his or her animal with proper shelter and protection from the weather, sufficient and wholesome food and water to keep his or her animal in good health and comfort, the opportunity for vigorous daily exercise, veterinary care when needed to prevent suffering and humane care and treatment.

(C) It shall be unlawful for any person to sell or offer for sale, barter or give away within the town baby chickens, baby ducklings or other fowl or rabbits under eight weeks of age as pets, toys, premiums or novelties. This section shall not be construed to prohibit the sale or display of baby chickens, ducklings or other fowl, or rabbits in proper facilities by breeders or stores engaged in business of selling for purposes other than for pets or novelties.

(D) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.

(E) It shall be unlawful for any person to tether any fowl.

(F) It shall be unlawful for any person to incite, procure or cause any animal fights within the corporate limits of the town. (2001 Code, ' 6-47) (Ord. 1992-2, passed 7-14-1992)

#### 6-48 LURING, ENTICING, SEIZING, MOLESTING OR TEASING AN ANIMAL.

It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on the property of its owner or keeper. (2001 Code, ' 6-48) (Ord. 1992-2, passed 7-14-1992)

#### 6-111 STRAY ANIMALS; REQUIREMENTS, FAILURE TO SURRENDER.

### **Chapter 7: Reserved**

### **Chapter 8: Aviation**

### **Chapter 9: Reserved**

### **Chapter 10: Buildings and Building Regulations**

#### 10-2 PENALTY.

Any violation of this chapter subjects the offender to a civil penalty of \$500, as outlined in ' 1-6. (2001 Code, ' 10-2)

#### 10-189 ALTERNATIVE REMEDIES.

Neither this article nor any of its provisions shall be construed to impair or limit, in any way, the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process, as authorized by G.S. ' 14-4 and ' 10-191 of this code; and the enforcement of any remedy provided in this article shall not prevent the enforcement of any other remedy or remedies provided in this article or in other ordinances or laws. (2001 Code, ' 10-189) (Ord. passed 7-11-1979)

#### 10-192 VIOLATIONS; PENALTY.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the dwelling or dwelling unit, or to vacate and close and remove or demolish the dwelling or dwelling unit, upon order of the public officer duly made and served as provided in this article, within the time specified in the order; and each day that any failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to ' 10-185, to occupy or permit the occupancy of the dwelling or dwelling unit after the time prescribed in the order for its repair, alteration or improvement or its vacating and closing; and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(B) The violation of any provision of this article shall subject the offender to a civil penalty in the nature of a debt of \$500. (2001 Code, ' 10-192) (Ord. passed 5-14-1985)



## **Chapter 11: Reserved**

## **Chapter 12: Reserved**

## **Chapter 13: Reserved**

## **Chapter 14: Cemeteries**

### **14-2 PENALTY.**

Any violation of this chapter subjects the offender to a civil penalty of \$100, as outlined in ' 1-6. (2001 Code, ' 14-2)

### **14-17 PREVENTION OF IMPROPER ASSEMBLAGES, EXPULSION OF PERSONS.**

The Town Manager or his or her agent shall have the power to prevent any unlawful assemblages in the town cemeteries, and any person disturbing the quiet and good order of the town cemeteries by unlawful noise or conduct or violating any of the provisions of this chapter or the rules and regulations prescribed, as provided in this chapter, shall be compelled to leave the grounds immediately. (1970 Code, ' 12-31; 2001 Code, ' 14-17)

### **14-18 SIGNS, NOTICES AND ADVERTISEMENTS.**

It shall be unlawful for any person to erect, post or maintain any sign, notice or advertisement of any kind in the town cemetery. This shall not be construed to apply to the town. (1970 Code, ' 12-32; 2001 Code, ' 14-18)

### **14-19 PEDDLING OR SOLICITING.**

### **14-20 MOTORCYCLES.**

It shall be unlawful for any person to ride any motorcycle, motorbike or motor scooter in any town cemetery, or to bring a motorcycle, motorbike or motor scooter into any town cemetery, except when the person is in attendance at a funeral or for other lawful purpose. (1970 Code, ' 12-34; 2001 Code, ' 14-20)

### **14-21 AUTOMOBILES.**

It shall be unlawful for any person to drive an automobile through the grounds of any town cemetery at a greater speed than 15 mph or to fail, neglect or refuse to keep an automobile on the right-hand side of the cemetery roadway. It shall be unlawful for any person to drive or propel any vehicle, baby carriage or bicycle upon the lots or the lawns of any town cemetery. Persons driving in any town cemetery shall be responsible for any damage done by them, and the Town Manager or his or her authorized agent may make claim and collect for any damage so done. (1970 Code, ' 12-35; 2001 Code, ' 14-21)

### **14-22 DISCHARGE OF FIREARMS.**

### **14-23 CHILDREN.**

It shall be unlawful for any children under the age of 15 years to enter or remain in any town cemetery unless accompanied by a parent, guardian or other caretaker of adult age to take care of them. (1970 Code, 12-37; 2001 Code, ' 14-23)

### **14-24 DOGS OR OTHER ANIMALS.**

It shall be unlawful for any person to bring, allow or permit to be brought any dog or other animal of any type or description into any town cemetery other than a legally recognized disability assistance animal.

### **14-25 RESTRICTED HOURS.**

### **14-26 PLACING OF OBJECTS IN TOWN CEMETERIES.**

#### 14-64 COMPLIANCE WITH ARTICLE.

(A) It shall be unlawful for any person to fail, refuse or neglect to comply with the provisions of this article.

(B) Failure to abide by any provision of this article by any funeral home, corporation, company or person may, with written notification by the Town Manager or his or her assignee, result in the temporary revocation of the privilege of interment or disinterment in any town cemetery; provided, the revocation shall be terminated upon the satisfactory repair of the grave or graves violating the provisions of this article, as determined by the Town Manager or his or her assignee.

(C) Permanent revocation of the privilege related to interment or disinterment shall be the result of two violations of this chapter within a 12-month period.

(D) Any privilege of interment or disinterment that is revoked may be appealed to the Board of Commissioners by written notice filed within ten days of the privilege revocation. The Board of Commissioners shall hold the hearing within a reasonable time. (2001 Code, ' 14-64) (Ord. 1990-2, passed 6-12-1990)

#### 14-69 REMOVAL OF BODY CONTRARY TO WISHES OF ORIGINAL OWNER OF LOT OR PLOT.

It shall be unlawful for any person to remove a body from a plot or lot in any town cemetery contrary to the express or implied wishes of the original owner of the lot or plot. (1970 Code, ' 12-47; 2001 Code, ' 14-69)

### **Chapter 15: Reserved**

### **Chapter 16: Civil Emergencies**

#### 16-1 PENALTY.

The violation of any provision of this chapter or of any provision of any restriction imposed by any proclamation authorized by this chapter shall be punishable by a civil penalty of \$1,000, as provided by 1-6. (2001 Code, ' 16-1) (Ord. passed 11-27-1969)

### **Chapter 17: Reserved**

### **Chapter 18: Environment**

#### 18-1 PENALTY.

The penalty for any violation of this chapter is a civil penalty of \$100 pursuant to 1-6. (2001 Code, ' 18-1)

#### 18-41 UNREASONABLE AND UNNECESSARY NOISES PROHIBITED.

It shall be unlawful for any person to create or assist in creating, permit, continue or permit the continuance of any unreasonable, loud, disturbing and unnecessary noise in the town. Noise of a character, intensity and duration as to be detrimental to the life or health of any individual is prohibited. (1970 Code, ' 5-20; 2001 Code, 18-41)

#### 18-42 NOISES ESPECIALLY PROHIBITED.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article; but this enumeration shall not be deemed to be exclusive:

(A) The sounding of any horn or signal device or any device on any automobile, motorcycle, bus or other vehicle while not in motion that causes an immediate breach of the peace, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended;

(B) The use of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle;

(C) The use or operation of any piano, manual or automatic, phonograph, radio, loudspeaker or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity, or in a manner as renders the device a public nuisance; however, upon application to the Town Manager, permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment;

(D) The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort and repose of any person within 100 yards; the use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in a manner as to create loud or unnecessary grating, grinding, rattling or other noise; and/or

(E) The use of any mechanical loudspeakers or amplifiers on trucks or any moving vehicle for advertising purposes or other purposes which causes an immediate breach of the peace, except where specific license is received from the Town Manager. (1970 Code, ' 5-21; 2001 Code, ' 18-42)

## **Chapter 19: Reserved**

## **Chapter 20: Fire Prevention and Protection**

### **20-1 PENALTY.**

Any violation of this chapter subjects the offender to a civil penalty of \$100, as provided in ' 1-6. (2001 Code, ' 20-1)

### **20-61 RIDING FIRE TRUCKS.**

No person, other than a bona fide member of the Fire Department, shall mount any fire engine, wagon or apparatus before it leaves the station or while on its way to or from a fire, or at any other time, unless by permission of the driver or officer in command of the engine, wagon or other apparatus. (1970 Code, ' 4-9; 2001 Code, ' 20-61)

### **20-63 BURNING TRASH OUTSIDE FIRE LIMITS.**

### **20-65 BLASTING.**

It shall be unlawful for any person to do any blasting within the town without first having secured a permit from the Fire Chief, which permit shall be approved by the Town Manager. (1970 Code, ' 4-26; 2001 Code, ' 20-65)

## **Chapter 21: Reserved**

## **Chapter 22: Law Enforcement**

## **Chapter 23: Reserved**

## **Chapter 24: Library**

## **Chapter 25: Reserved**

## **Chapter 26: Offenses and Miscellaneous Provisions**

### *Article I. In General*

### **26-1 PENALTY.**

Unless otherwise noted, all violations of this chapter subject the offender to a civil penalty of \$100, as required in ' 1-6. (2001 Code, ' 26-1)



*Article II. Property Offenses*

26-31 ATTACHING WIRES TO TREES.

26-32 JUNKYARDS.

It shall be unlawful for any person to operate a junkyard or to dismantle secondhand automobiles, as defined by G.S. ' 136-143, for the purpose of salvaging the parts of or to store unserviceable automobiles or parts, pursuant to G.S. ' 160A-303, in areas on the outside of buildings or on open lots within the corporate limits of the town. (1970 Code, ' 5-10; 2001 Code, ' 26-32)

26-33 DISCHARGE OF INDUSTRIAL WASTE.

26-34 STANDING WATER.

26-35 VANDALISM OF TOWN AND OTHER PUBLIC PROPERTY.

It shall be unlawful for any person to commit any act of vandalism to or on town property, to break glass on town or other public property or to deface or damage town or public property. (2001 Code, ' 26-35)

26-36 ADVERTISING.

It shall be unlawful for any person to paste, tack, fasten or lean against any building, wall, fence, tree, pole, post or any other property, whether the property shall be public or private, any advertising sign, cards or placards, without the consent or approval of the owner of the property or the Town Manager. (1970 Code, 5-7; 2001 Code, 26-36)

26-37 FLAMMABLE SIGNS.

It shall be unlawful for any person to erect, attach to or cause to be erected or attached to any part of the outside of any building within the fire district, any cloth, wooden or other flammable sign, without first obtaining a permit from the Fire Inspector. (1970 Code, ' 5-7.1; 2001 Code, ' 26-37)

*Article III. Breach of the Peace*

26-71 OPEN ALCOHOLIC BEVERAGES PROHIBITED.

(A) It shall be unlawful for any person to drink, or to have in his or her possession and open, any can, bottle or other type container of beer, lager beer, unfortified wine or other alcoholic beverages containing at least 0.5% of alcohol by volume upon any public road, street, highway or parking lot within the corporate limits of the town.

(B) The term **PARKING LOT**, as used in this section, shall include the parking premises of any business establishment within the town. (2001 Code, ' 26-71) (Ord. passed 11-9-1982)

26-72 HANDBILLS AND CIRCULARS.

It shall be unlawful for any person to distribute or procure any person to distribute or throw upon any of the streets or alleys of the town, or in or upon any motor vehicle, any advertising samples, handbills, dodgers, circulars booklets or other commercial advertising so that distribution results in the circulars, handbills and the like becoming litter on the ground. (1970 Code, ' 5-7.2; 2001 Code, ' 26-72)

26-73 AMUSEMENTS, FAILURE TO PAY ADMISSION FEE.

It shall be unlawful for any person, without the knowledge or consent of any person in charge of any amusement or any show where an admission fee is charged, to see the event without paying for the privilege. (1970 Code, ' 5-8; 2001 Code, ' 26-73)

26-74 FAILURE TO PAY FARE.

It shall be unlawful for any person, except those entitled to free transportation, to ride upon any bus, taxi or other means of public transportation for hire, without paying the fare prescribed or allowed by law. (1970 Code, 5-9; 2001 Code, ' 26-74)

*Article IV. Offenses against Public Morals*

26-111 OBSCENITY; INDECENT EXPOSURE, INDECENT REMARKS.

It shall be unlawful for any person to make an insulting or indecent remark likely to result in an immediate breach of the peace to any person upon any street or public place within the corporate limits of the town, or to expose himself or herself indecently, or to commit any indecent act, as defined in G.S. ' 14-190.9, in public in the town. (1970 Code, ' 5-4; 2001 Code, ' 26-111)

26-112 OBSCENE LITERATURE AND DRAWINGS.

It shall be unlawful for any person to sell or offer for sale, send or deliver any obscene, vulgar or profane books, notes, cards, pictures or writings, as defined by G.S. ' 14-190.1 et seq. and G.S. ' 160A-181.1 et seq., within the corporate limits of the town; or to write, draw or carve any letters or words; or use, write or draw any device, characters or other descriptive devices which are of a lewd and vulgar nature, upon any public building, private house, fence or wall within the corporate limits of the town. (1970 Code, ' 5-4.1; 2001 Code, ' 26-112)

26-113 OBSCENE SHOWS.

It shall be unlawful for any person to own, operate, display or put on for exhibition any obscene shows, as defined in G.S. 14-190.1 et seq. Each person performing in any such show shall be equally guilty as the person who owns, operates, displays or puts on any obscene show. (1970 Code, ' 5-4.2; 2001 Code, ' 26-113)

26-114 GAMBLING.

It shall be unlawful for any person to engage in any game of chance or to engage in gambling with any device of any nature or description whatsoever within the corporate limits of the town. (1970 Code, ' 5-8.1; 2001 Code, ' 26-114)

*Article V. Minors*

Division 1.

26-151 PURPOSES.

26-152 DEFINITIONS.

26-153 ENFORCEMENT.

When a juvenile or minor is found to be in violation of this article, the officer will take the juvenile or minor to the residence of his or her parent or guardian, or the parent or guardian will be contacted by the Police Department to come to the Police Department to pick up the juvenile or minor. The officer shall complete a written curfew incident report and the report will be kept on file. The Police Department shall review all filed curfew incident reports and proceed as follows.

(A) The first curfew violation...

(B) The second curfew violation...

(C) The third or a subsequent curfew violation...

(D) Notwithstanding the foregoing, the County Department of Social Services may be contacted in relation to any curfew violation by a juvenile or minor and any person may be subject to a criminal citation for violation of the provisions of ' 26-181(C), (D) or (E), in relation to any curfew violation by a juvenile or minor.

(2001 Code, ' 26-153) (Ord. 99-03-01, passed 3-9-1999)

26-154 PENALTIES.

(A) Any person who violates any provision of this article shall be guilty of a misdemeanor and shall be subject to a fine not to exceed \$100 and imprisonment in the discretion of the court, in accordance with ' 1-6.

(B) In addition to any other applicable penalty, a juvenile or minor who violates any provision of this article is subject to being adjudicated delinquent. The court may, in its discretion, impose any dispositional alternative that is provided in the State Juvenile Code for any juvenile or minor who is delinquent. (2001 Code, ' 26-154)

(Ord. 99-03-01, passed 3-9-1999)

## Division 2. Curfew

### 26-181 ESTABLISHED, ENFORCEMENT.

A curfew applicable to minors and juveniles is established and shall be enforced as follows.

#### (A) *Time limits.*

(1) It is unlawful for any minor to be or remain upon any establishment or public place in the town between 12:00 midnight and 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday, and between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday.

(2) It is unlawful for any juvenile to be or remain upon any establishment or public place in the town between 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, Thursday, Friday or Saturday and 6:00 a.m. the following day

(B) *Out-of-school suspensions time limit.* It is unlawful for any juvenile or minor who has been suspended from school or has failed to attend school for any reason during regular school hours, who is not in the company of a parent or guardian, to be or remain upon any public place in the town between the hours of 7:30 a.m. and 3:30 p.m. on any school day.

(C) *Responsibility of adults.* It is unlawful for any parent, guardian or other person charged with the care and custody of any juvenile or minor to allow or permit the minor to be in or upon, or remain in or upon a public place in the town within the applicable curfew hours set by subsections (A) and (B) of this section, except as otherwise provided in ' 26-182. A parent or guardian of a juvenile or minor commits an offense if he or she knowingly permits or, by insufficient control, allows the juvenile or minor to remain in any public place or on the premises of any establishment within the town during the restricted hours. The term **KNOWINGLY** includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile or minor in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of the juvenile or minor. Further, it shall be unlawful for a parent or guardian to refuse to take custody during the hours of curfew of a juvenile or minor for whom the parent or guardian is responsible.

(D) *Responsibility of business establishments.* It is unlawful for any person operating a place of business or amusement to allow or permit any juvenile or minor to be in or upon, or to remain in or upon, any place of business or amusement operated by them within the applicable curfew hours set by subsections (A) and (B) of this section, except as otherwise provided in ' 26-182. The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a juvenile or minor to remain upon the premises of the establishment during the restricted hours. The term **KNOWINGLY** includes knowledge that an owner, operator or employer should reasonably be expected to have concerning the patrons of an establishment. The standard for **Knowingly** shall be applied through an objective test whether a reasonable person in the operator's or employee's position should have known that the patron was a juvenile or minor in violation of this section.

(E) *Aiding and abetting by adult, guardian or parent.* It is unlawful for an adult, guardian or parent to allow, permit, encourage, aid or abet a juvenile or minor in the violation of subsections (A) or (B) of this section, except as otherwise provided in ' 26-182. (2001 Code, ' 26-181) (Ord. 99-03-01, passed 3-9-1999)

### 26-182 EXCEPTIONS.

### 26-183 DEFENSE.

26-184 REFUSAL OF GUARDIAN OR PARENT TO TAKE CUSTODY OF A JUVENILE OR MINOR.

(A) If any guardian or parent refuses to take custody of his or her juvenile or minor child found in violation of this article, the officer with custody of the juvenile or minor shall contact the County Department of Social Services and release the juvenile or minor to that agency, pending further investigation by the Police Department and Department of Social Services.

(B) The adult will be subject to a criminal citation for violation of the provisions of ' 26-181(C). (2001 Code, ' 26-184) (Ord. 99-03-01, passed 3-9-1999)

*Article VI. Firearms*

26-211 REGULATED.

(A) It shall be unlawful for any person to discharge an air rifle, air pistol, air gun, slingshot or any like instrument used to eject a pellet or projectile or to discharge a pistol, rifle, shotgun or other gun within the corporate limits, except a police officer in the performance of his or her duty or by a person in defense of person or property.

(B) It shall be unlawful for any parent of a child or any person who stands in the relationship of parent to a child to knowingly permit the child to discharge an air rifle, air pistol, air gun, slingshot or any like instrument used to eject a pellet or projectile. (1970 Code, ' 5-1.3; 2001 Code, ' 26-211)

26-212 SIGNS AUTHORIZED, REQUIRED.

**Chapter 27: Reserved**

**Chapter 28: Peddlers and Solicitors**

28-1 PENALTY.

Any violation of this chapter subjects the offender to a civil penalty of \$500, as provided in ' 1-6. (2001 Code, ' 28-1)

**Chapter 29: Reserved**

**Chapter 30: Solid Waste**

30-2 PENALTY FOR VIOLATION.

Violation of any provision of this chapter shall subject the offender to a civil penalty of \$500, pursuant to 1-6, and shall also be subject to appropriate equitable remedies, including, but not limited to, injunctive relief. (2001 Code, ' 30-2) (Ord. 1993-5(a), passed 1-12-1993)

30-33 DEPOSITING WASTE ON PUBLIC OR SEMI-PUBLIC AREAS PROHIBITED.

**Chapter 31: Reserved**

**Chapter 32: Streets, Sidewalks and Other Public Places**

32-71 PARADES, PICKET LINES AND GROUP DEMONSTRATIONS.

It shall be unlawful for any person to parade, picket or demonstrate in any manner within the town limits without first complying with this article. Any violation of this article subjects the offender to a civil penalty of \$100, as provided in ' 1-6. (1970 Code, ' 3-12; 2001 Code, ' 32-71)

32-77 CERTAIN ACTIVITIES PROHIBITED.

The taking or keeping of any dog or other vicious animal, whether leashed or unleashed, except for legally recognized disability assistance animals, when performed or undertaken in conjunction with or as a part of any parade, picket line or group demonstration is prohibited and declared unlawful. (1970 Code, ' 3-12.4; 2001 Code, ' 32-77)

32-78 INTERFERENCE PROHIBITED.

No person shall hamper, obstruct, impede or interfere with any parade, picket line or group demonstration being conducted under authority of a permit duly issued by the Chief of Police. (1970 Code, ' 3-12.6; 2001 Code, ' 32-78)

32-81 ASSEMBLY ON SIDEWALK.

32-111 PENALTY.

Any violation of this article subjects the offender to a civil penalty of \$100, as provided in 1-6. (2001 Code, ' 32-111)

32-112 DAMAGING BRIDGES AND CULVERTS PROHIBITED.

32-114 PLACING OBJECTS ON STREETS AND SIDEWALKS.

32-115 OBSTRUCTING OR DAMAGING STREET DRAINAGE WAYS PROHIBITED.

32-151 PENALTY.

Any violation of this article subjects the offender to a civil penalty of \$100, as provided in ' 1-6. (2001 Code, ' 32-151)

32-152 GOODS ON SIDEWALKS.

No person shall place or display or sell any goods, wares or merchandise of any kind upon the streets and sidewalks of the town, or store goods, wares or merchandise for any length of time whatsoever that poses a credible threat of harm to the public health, safety and welfare. This section shall apply to shoeshine stands and any vendor of goods and services which shall use the streets and sidewalks of the town as a place of business. (1970 Code, ' 7-21; 2001 Code, ' 32-152)

32-153 BICYCLES ON SIDEWALK PROHIBITED.

32-154 PLAYING BALL OR SKATING ON STREETS OR SIDEWALKS PROHIBITED.

**Chapter 33: Reserved**

**Chapter 34: Subdivisions**

**Chapter 35: Reserved**

**Chapter 36: Traffic and Vehicles**

36-2 UNLAWFUL TO VIOLATE CHAPTER.

It shall be unlawful for any person to do any act forbidden, or fail to perform any act required, in this chapter. Violation of any provisions of this chapter subjects the offender to a civil penalty of \$100, as provided in ' 1-6. (1970 Code, ' 9-3; 2001 Code, ' 36-2)

36-4 CIVIL PENALTIES PAYABLE TO TOWN CLERK.

36-6 OBEDIENCE TO POLICE.

No person shall willfully fail or refuse to comply with any lawful order or direction by any police officer. (1970 Code, ' 9-32; 2001 Code, ' 36-6)



36-10 PERSONS PROPELLING PUSHCARTS OR RIDING BICYCLES OR ANIMALS TO OBEY TRAFFIC REGULATIONS.

Every person propelling any pushcart, or riding a bicycle or an animal, upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which, by their very nature, can have no application. (1970 Code, ' 9-36; 2001 Code, ' 36-10)

*Article II. Traffic Control Devices*

36-41 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

The driver of any vehicle shall obey the directions of any traffic control device, whether the device is a traffic sign or appropriate street markings, applicable to and placed in accordance with the traffic ordinances of the town, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in ' 36-9. (1970 Code, ' 9-41; 2001 Code, ' 36-41)

36-42 OBEDIENCE TO NO TURN AND TURNING MARKINGS.

Wherever authorized street signs or street markings are placed, painted, erected or installed indicating that no right turn, left turn or u-turn is permitted, no driver of a vehicle shall disobey the directions of any signs or markings, when they are placed within an intersection indicating the course to be traveled by vehicles traversing or turning at the intersection. (1970 Code, ' 9-42; 2001 Code, ' 36-42)

*Article III. Stopping, Standing and Parking*

36-71 OBEDIENCE TO NO PARKING ZONE AND SAFETY ZONE MARKINGS.

Whenever authorized signs or street markings are placed, erected or installed indicating no parking zones, or safety zones, no driver of a vehicle shall disobey the regulations. Any violation of this article subjects the offender to a civil penalty of \$25, as provided in ' 1-6. (1970 Code, ' 9-43; 2001 Code, ' 36-71)

36-72 VEHICLES NOT TO STOP IN STREET; EXCEPTIONS.

36-73 VEHICLES NOT TO OBSTRUCT PASSING OF OTHER VEHICLES.

36-74 PARKING PROHIBITED AT ALL TIMES IN DESIGNATED PLACES.

36-75 PARKING TIMES LIMITED IN DESIGNATED PLACES.

36-76 BUS AND TAXICAB STANDS, PASSENGER LOADING AND UNLOADING ZONES.

36-77 PARKING PARALLEL TO CURB, UNLESS OTHERWISE DIRECTED BY THIS ARTICLE OR BY PARKING LINES.

Where not otherwise indicated by this article, and where the street is not marked to show how vehicles shall park, all vehicles shall park parallel to the curb and not more than 12 inches from it. (1970 Code, ' 9-55; 2001 Code, ' 36-77)

36-78 VEHICLES BACKED UP TO CURB.

In no case shall a vehicle remain backed up to a curb, except when actually loading or unloading. (1970 Code, ' 9-56; 2001 Code, ' 36-78)

36-79 LEFT SIDE TO CURB NOT PERMITTED IN THE BUSINESS DISTRICT.

No vehicle shall stop with its left side to the curb in the business district; except that, on one-way streets, vehicles shall stop headed in the direction of traffic. (1970 Code, ' 9-57; 2001 Code, ' 36-79)

36-80 PARKING WITHIN LINES WHERE PROVIDED.

36-81 PARKING AT 45-DEGREE ANGLE.

Automobiles and other vehicles shall be parked at an angle of approximately 45 degrees with the curb on those streets or parts of streets described in Schedule 2, on file at the Town Clerk's office. (1970 Code, ' 9-59; 2001 Code, ' 36-81)

36-82 UNLAWFUL PARKING.

No person shall stand or park a vehicle upon any street for the principal purposes of:

- (A) Displaying it for sale;
- (B) Washing, greasing or repairing the vehicle, except repairs necessitated by an emergency;
- (C) Storage by garages, dealers or other persons when the storage is not incident to the bona fide use and operation of the automobile or other vehicles;
- (D) Storage of any detached trailer or van where the towing unit has been disconnected, or for the purpose of transferring merchandise or freight from one vehicle to another; and/or
- (E) To park or stand a tractor and trailer, tractor and semi-trailer, a trailer, semi-trailer, van, oil tanker or other tanker on any street in the town at any time for a period longer than one hour, except when actually being loaded or unloaded, and when the vehicle is incapacitated. (1970 Code, ' 9-510; 2001 Code, ' 36-82)

36-83 STANDING, PARKING VEHICLES FOR PRIMARY PURPOSE OF ADVERTISING PROHIBITED.

36-84 STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.

36-85 MOVING OF VEHICLES OF OTHER OPERATORS INTO RESTRICTED AREAS PROHIBITED.

*Article IV. Operation of Vehicles*

36-121 PENALTY.

Any violation of this article subjects the offender to a civil penalty of \$100, as provided in ' 1-6. (2001 Code, ' 36-121)

36-122 GENERAL SPEED LIMITS.

It shall be unlawful for any person to operate a motor vehicle in the town in excess of 35 mph; however, the speed limit on those streets or parts of streets enumerated in Schedule 6, on file at the Town Clerk's office, shall be 20 mph. (1970 Code, ' 9-71; 2001 Code, ' 36-122)

36-123 STOP BEFORE ENTERING A THROUGH STREET.

36-124 STOP INTERSECTIONS.

36-125 STOP WHEN TRAFFIC OBSTRUCTED.

36-126 YIELD RIGHT-OF-WAY INTERSECTIONS.

36-127 ONE-WAY STREETS.

36-128 DRIVING THROUGH FUNERAL PROCESSIONS.

No vehicle shall be driven through a funeral procession, except Fire Department vehicles, police patrols and ambulances when responding to calls. (1970 Code, ' 9-66; 2001 Code, 36-128)

36-129 LIMITATION ON TURNING AROUND.

No driver shall turn any vehicle in a u-turn on any street in the town unless it is indicated to be lawful by an appropriately placed sign. (1970 Code, ' 9-67; 2001 Code, ' 36-129)

36-130 LIMITATIONS ON BACKING.

36-131 EMERGING FROM ALLEY OR PRIVATE DRIVEWAY.

36-132 VEHICLES SHALL NOT BE DRIVEN ON THE SIDEWALK.

36-133 CLINGING TO MOVING VEHICLES.

Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates, skateboard, inline skates or any

toy vehicle shall not attach the vehicle or himself or herself to any public conveyance or moving vehicle upon any roadway. (1970 Code, ' 9-611; 2001 Code, ' 36-133)

36-134 RIDING ON HANDLEBARS PROHIBITED.

36-135 RIDING ON SIDEWALKS, OR WITHOUT HANDS ON HANDLEBARS, PROHIBITED.

36-136 USE OF COASTER, SKATES AND SIMILAR DEVICES PROHIBITED.

No person upon roller or inline skates, or riding in or by means of any coaster, skateboard, toy vehicle or similar device shall go upon any roadway unless it be while crossing a street at a crosswalk or intersection, except upon streets set aside as play streets. (1970 Code, ' 9-614; 2001 Code, ' 36-136)

36-137 LIGHTS ON PARKED VEHICLES.

36-138 MOVING CARS FROM PARKED POSITIONS.

36-139 DRIVING ON ROADWAYS LANED FOR TRAFFIC.

All vehicles operating on any roadway which has been clearly marked with lanes for traffic shall be driven as nearly as practicable entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety. (1970 Code, ' 9-617; 2001 Code, ' 36-139)

36-140 TRUCKS PROHIBITED ON CERTAIN STREETS.

36-141 BOARDING OR ALIGHTING FROM PUBLIC CONVEYANCES OR OTHER VEHICLES.

No person shall board or alight from any public conveyance or other vehicle while the conveyance or vehicle is in motion. (1970 Code, ' 9-81; 2001 Code, ' 36-141)

36-142 UNLAWFUL RIDING.

No person shall ride on any public conveyance or vehicle not designated or intended for the use of passengers. This section shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in spaces intended for merchandise. (1970 Code, ' 9-82; 2001 Code, ' 36-142)

36-143 ENTERING, JUMPING OR RIDING VEHICLES WITHOUT PERMISSION.

No person shall enter, jump on or ride any automobile or other vehicle without the consent of the owner or driver. (1970 Code, ' 9-83; 2001 Code, ' 36-143)

36-144 PERSONS RIDING MUST STAY INSIDE.

36-145 NOT MORE THAN THREE PERSONS PERMITTED IN FRONT SEAT.

**Chapter 37: Reserved**

**Chapter 38: Utilities**

**38-1 PENALTY.**

Any violation of this chapter subjects the offender to a civil penalty of \$500, as provided in 1-6. (2001 Code, 38-1)

**38-40 UNLAWFUL TO USE WATER WHEN SERVICE DISCONNECTED.**

**38-42 UNAUTHORIZED USE OF WATER.**

It shall be unlawful for any person to fill any lake, pool, pond or other reservoir or use a stream of water larger than two inches for washing or flushing purposes without permission from the Town Manager or his or her authorized agent. It shall be unlawful to supply or sell water, either before or after use, to other persons or

families; nor shall any person take away or carry away water from any hydrant, public fountain or other outlet without the consent of the Town Manager. The fire hydrants are for the use of the Fire Department and are not to be used by any other person for any other purpose without permission from the Town Manager. (1970 Code, 8-12; 2001 Code, ' 38-42)

#### 38-43 DAMAGING OR TAMPERING WITH SYSTEMS PROHIBITED.

#### 38-82 PENALTIES.

(A) Any person found to be violating any provision of this article, except ' 38-91 shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for its satisfactory correction. The offender within the period of time stated in the notice shall permanently cease all violations.

(B) Any person who shall continue any violation beyond the time limit provided in subsection (A) of this section shall be subject to a civil penalty as contained in ' 1-6.

(C) Any person violating any of the provisions of this article shall become liable to the town for any expense, loss or damage occasioned by the town by reason of the violation. (2001 Code, ' 38-82) (Ord. passed 8-10-1976)

#### 38-91 PROHIBITED USE OF PUBLIC SEWERS.

#### 38-94 DAMAGING OR OBSTRUCTING SYSTEM PROHIBITED.

It shall be unlawful for any person to damage, tamper with or otherwise do harm to the mains, pipes, apparatus or other part of the sewer system, or to place or cause to be placed any object of any nature whatsoever into the system which will block, obstruct or impede its normal operation or prevent, hinder or damage the town's disposal facilities. (1970 Code, ' 8-28; 2001 Code, ' 38-94)

#### **Chapter 39: Reserved**

#### **Chapter 40: Vegetation**

#### **Chapter 41: Reserved**

#### **Chapter 42: Vehicles for Hire**

#### **Chapter 43: Flood Damage Prevention**

#### 43-13 PENALTIES FOR VIOLATION.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking other lawful action as is necessary to prevent or remedy any violation. (Ord. 2007-10-02, passed 10-9-2007)

#### **Chapter 44: Zoning**

#### 44-20 CIVIL CITATION.

(A) *Generally.* Any act constituting a violation of any section or provision of this chapter may subject the violator to a civil penalty of \$100 to be recovered by the town in a civil action in the nature of a debt, as provided by ' 1-6.

*Notice of violation; Appeals to Board of Adjustment; Procedure...*

(D)(2)(e) Failure to take the prescribed corrective action within 30 days after receipt of the notice of violation shall result in a civil citation being issued subjecting the violator to a civil penalty of \$500 per day, with each day that the violation is in effect constituting a separate and distinct offense;

*Payment of penalty...*

(F) *Failure to pay.*

(1) Where a violator has taken the corrective action to abate or otherwise make lawful the violation within 20 days of the civil citation(s) being served, but has not paid or cleared the resulting penalty or penalties within 15 days of the last day that the civil citation was in effect, the Zoning Administrator shall seek recovery of the penalty or penalties by way of civil action against the violator.

(2) Where a violator has not taken the corrective action to abate or otherwise make lawful the violation and has not paid or cleared the resulting penalty, at the time that the civil citation has been in effect for 20 days, the Zoning Administrator shall seek recovery of the penalty or penalties by way of civil action against the violator. (2001 Code, ' 44-20) (Ord. 1987-4, passed 10-19-1987)